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INFO RUCNARF/ASEAN REGIONAL FORUM PRIORITY
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RUEAWJB/DEPT OF JUSTICE WASHINGTON DC PRIORITY
RHMCSUU/FBI WASHINGTON DC PRIORITY
RUEATRS/DEPT OF TREASURY WASHDC PRIORITY
RUEAHLK/DEPT OF HOMELAND SECURITY WASHINGTON DC PRIORITY

UNCLAS MANILA 000626

SIPDIS

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E.O. 12958: N/A
TAGS: [KTFN](#) [KCRM](#) [EFIN](#) [RP](#)
SUBJECT: RP SUPREME COURT SUPPORTS BANK SECRECY

REF: A. MANILA 207
[1](#)B. MANILA 404

[1](#)1. (U) Summary: The Philippine Supreme Court has ruled that a bank account holder must be given prior notification before inquiry can be made into their bank records during investigation of money laundering or corruption cases. Both Philippine and U.S. criminal law enforcement efforts may be negatively affected by this decision. The Philippine Office of the Solicitor General is likely to file a motion by March 14 asking that the entire Supreme Court rehear the case. End summary.

Philippines v. Eugenio

[1](#)2. (SBU) Prompted by press reports that the Philippine Supreme Court had ruled in Republic of the Philippines v. Eugenio to restrict the Philippine Anti-Money Laundering Council (AMLC) investigative powers (see www.manilastandardtoday.com February 18 article "Court Stops Probe of NAIA Bank Deals"), we asked AMLC officials for an explanation. In various conversations with AMLC Executive Director Vicente Aquino, Richard Funk, Arnold Frane, and other AMLC officials, we found agreement that the decision has severe negative implications for the investigation of certain financial crimes, both in the Philippines and in the United States.

Court Ruling Formally Issued on February 29

[1](#)3. (SBU) According to AMLC officials, the Supreme Court decision requires that except in cases of terrorism, kidnapping, and drug violations bank account holder must be given prior notification before inquiry can be made into their bank records during investigation of money laundering or corruption cases. In financial fraud and corruption investigations this will require the AMLC to disclose the fact of its investigation and the evidence uncovered to the subject of the investigation long before the government is in a position to file criminal charges. It will also allow the account holder to prevent effective investigation by tying the proceedings up with litigation. (In the subject Supreme Court case, the original request for records was made in 2005.) Giving subjects of investigations notice of the investigations at an early stage allows opportunity for the destruction of evidence, the concealment of other assets, and the obstruction of justice.

¶4. (SBU) According to AMLC officials, United States criminal law enforcement efforts will also be negatively affected by this decision. Through our Mutual Legal Assistance Treaty with the Philippines, the United States enjoys an excellent means to seek financial records to support investigations of a wide variety of violations of U.S. law including wire fraud, money laundering, counterfeit products, smuggling, and computer fraud. In most cases the U.S. investigations are not at stages where disclosure of the investigation can be made without severely compromising the investigation. If the subject ruling is upheld, our ability to obtain necessary evidence from the Philippines in such cases will be significantly reduced.

¶5. (SBU) AMLC officials have assured us that the Philippine Office of the Solicitor General is likely to file a motion by March 14 asking that the entire Supreme Court rehear the case. However, the Supreme Court is unlikely to decide whether it will rehear the case until the end of May, at the earliest.

KENNEY